

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: September 9, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: NON-TACTICAL UNINTENTIONAL DISCHARGE 051-19 FOR 9/15/20
CLOSED-SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On () Off (X)</u>	<u>Uniform-Yes (X) No ()</u>
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Pacific	10/23/19	12:00 p.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Yzaguirre, C./ Sgt. II	30 years
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<u>Total Involved Officer(s)</u>

1 x Sgt. II

<u>Suspect</u>	<u>Deceased () Wounded () Non-Hit ()</u>
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Does not apply.	
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COP Recommendations

Tactics – Tactical Debrief, Sergeant Yzaguirre.

Drawing/Exhibiting – Does not apply.

Unintentional Discharge – Administrative Disapproval, Negligent Discharge, Sergeant Yzaguirre.

IG Recommendations

Tactics – Same as COP.

Drawing/Exhibiting – Does not apply.

Unintentional Discharge – Same as COP.

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INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

Investigative Summary

On Wednesday, October 23, 2019, at approximately 1200 hours, the Metropolitan Division Crime Impact Team (CIT), supervised by Sergeant II Chris Yzaguirre, Serial No. 27097, was assisting Pacific Area in locating and arresting an Assault with a Deadly Weapon (ADW) suspect, 48-year-old Hank Lachman.^{2 3}

The following CIT plain clothes officers were assigned to Sergeant Yzaguirre; Police Officers III Jason Malik, Serial No. 34652, Jose Lopez, Serial No. 39003, Jeffrey Punzalan, Serial No. 38812, Ruben Rodriguez, Serial No. 38654, Enrique Guerrero, Serial No. 36315, Jaime Luna, Serial No. 34651, and Anson Bustamante, Serial No. 40558. In addition, Metropolitan Division CIT uniformed Police Officers III Charles Wright, Serial No. 37914, and Matt Nies, Serial No. 40113, were driving a marked black and white Ford Explorer sport utility vehicle, Shop No. 81118.

On the morning of October 23, 2019, CIT personnel planned to surveil Lachman for the purpose of taking him into custody. Once detained, a warrant was to be served at Lachman's residence (8001 Windsford Avenue) to search for evidence related to the crime he was alleged to have committed. Prior to the surveillance, Sergeant Yzaguirre held a briefing and discussed a tactical plan, as well as applicable Department policy, issues related to command and control and the roles assigned to each CIT officer. Sergeant Yzaguirre also ensured notifications were made to LA Clear, the Pacific Division Watch Commander, the Metropolitan Division front desk, Metropolitan Division Lieutenant II Roger Murphy, Serial No. 30990, and to the Metropolitan Division Commanding Officer, Captain III Jonathan Tippet, Serial No. 26086 (Addendum No. 1).

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Sergeant Yzaguirre was attired in plain clothes, wore a ballistic tactical vest, and was armed with a Department-approved handgun. In addition, he had a Department-approved back-up pistol holstered in between the center console and front passenger seat. He was equipped with handcuffs and a TASER, which were attached to his tactical vest. He had a Hobble Restraint Device (HRD) and a side-handle baton in his police vehicle. He was also equipped with a Department-issued Colt M4 rifle that was secured in a rifle rack (Blac-Rac Weapon Retention System), between the front seats of his police vehicle. He was driving a dual purpose black Dodge Charger, Shop No. 82250.

³ The Metropolitan Division CIT is a surveillance unit that assists detectives throughout the Department with the apprehension of known suspects. They operate in plain clothes and drive unmarked police vehicles.

The CIT officers began surveilling Lachman's residence and eventually observed him leave in a black Ford F-150 truck, with California License Plate No. 43647T2. The officers followed Lachman, with the intention of stopping and apprehending him.

While stopped westbound on La Tijera Boulevard, east of Sepulveda Boulevard, Sergeant Yzaguirre decided to make his rifle ready for deployment, because he knew Lachman owned several weapons and believed he was probably armed.

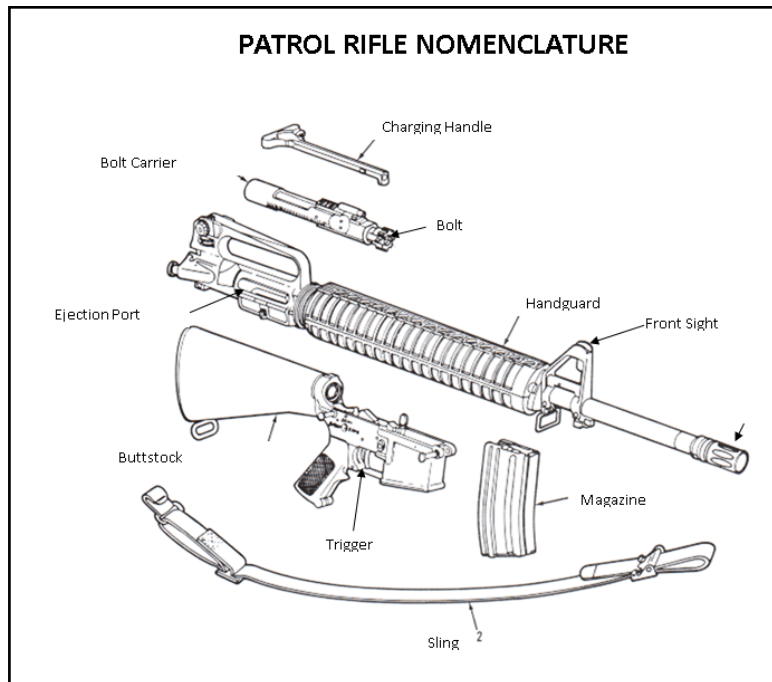
OIG Note No. 1: As described by Sergeant Yzaguirre, "And I was merely trying to catch up to the following. At some point on La Tijera, traffic became backed up, I brought the rifle out of its rack."⁴

He explained that he wanted to be ready for a variety of possible scenarios that could have unfolded, such as ending up in a pursuit with Lachman with limited resources.

In describing how he retrieved his rifle, Sergeant Yzaguirre indicated he first disengaged the locking mechanism of his rifle rack utilizing the release button on the center console keypad. He lifted the locking lever and grasped the handguard of the rifle with his right hand and removed it from the rack. Sergeant Yzaguirre grasped the front handguard with his left hand and pointed the rifle toward the passenger floorboard. He then used his right hand to pull the charging handle of the rifle and chambered a round. After conducting a chamber check and observing a round in the chamber, Sergeant Yzaguirre verified the safety was in the "on" position and placed his rifle against the front passenger seat with the muzzle pointed downward toward the floorboard.

Note: According to Sergeant Yzaguirre, he attended shooting training the day prior on Tuesday, October 22, 2019. At the conclusion of his training, he placed his patrol rifle in the fixed locking mount of his assigned vehicle, with the muzzle pointing upward and the stock toward the bottom of the rack. The bottom of the magazine was facing the backseat and the rifle optic was facing the front windshield. Sergeant Yzaguirre indicated his rifle was loaded to "patrol ready," which he described as, no round in the chamber and a loaded magazine in the magazine well. The rifle was locked and secured inside the mount with the safety in the "on" position.

⁴ Yzaguirre, Second Interview, Page 7, Lines 17-19.



At approximately 1156 hours, Sergeant Yzaguirre broadcast a request for an Air Unit on Pacific Division frequency. When advised by Communications Division (CD), at approximately 1158 hours, that he still showed Code Five at their location (8001 Windsford Avenue), Sergeant Yzaguirre informed CD that they were following an attempt murder suspect. Approximately one minute later, the CD operator advised Sergeant Yzaguirre that the Air/K9 frequency was busy, but she would continue to try and get through. Sergeant Yzaguirre responded by instructing CD to cancel his request for an Air Unit due to their proximity to the Los Angeles International Airport. Shortly thereafter, CIT officers followed Lachman as he drove into the Ralphs market parking lot at 8801 South Sepulveda Boulevard.

Note: Although Sergeant Yzaguirre requested and cancelled an Air Unit, the investigation determined he did not show himself or his Unit Code Six at the termination of the following. However, after Lachman was taken into custody, Sergeant Yzaguirre initiated a broadcast at approximately 1213 hours, requesting a Pacific Division unit respond to the rear of the Starbucks located at Sepulveda Boulevard and La Tijera Boulevard to transport Lachman from the scene.

Sergeant Yzaguirre estimated he was approximately 10 to 15 seconds behind the surveillance team. Upon arriving in the parking lot, he stopped behind the black and white police vehicle. Sergeant Yzaguirre believed his officers were gaining compliance from Lachman and no longer felt the need to deploy his rifle. Sergeant Yzaguirre indicated he was the only supervisor at scene and intended to secure his loaded rifle in

the rifle rack in order to assume command and control of the incident. His intention was to return to his vehicle after the incident had concluded to unload his rifle.

Note: The Ralphs security video depicts Sergeant Yzaguirre stopping his vehicle approximately seven seconds after Officer Wright stopped his black and white police vehicle behind Lachman.

[...]

After stopping his vehicle, Sergeant Yzaguirre used his right hand to grasp his rifle by the handguard, while his left hand remained on the steering wheel. He held the rifle pointed in an upward position and attempted to place it back into the rifle rack. The rifle did not secure into the rack, and instead, fell forward toward the dashboard. Sergeant Yzaguirre was concerned his rifle would damage the navigation screen located on the front dashboard and used both hands to control the rifle's forward movement. He positioned his left hand either below the handguard or on the receiver, while his right hand remained on the upper handguard area.

Sergeant Yzaguirre again attempted to place his rifle back into the rifle rack. During this attempt, a round discharged from the rifle, resulting in a Non-Tactical Unintentional Discharge (NTUD).

OIG Note No. 2: *Sergeant Yzaguirre described splitting his attention between looking toward his officers and looking at the rifle and rifle rack as he tried to secure the weapon, both before and at the time of the unintentional discharge. Sergeant Yzaguirre commented that he should have done a "full inspection" while trying to secure his rifle, and he stated, "I was just -- I got caught up in the moment, was trying to get out there."*⁵

The fired bullet traveled through the roof of the police vehicle.⁶ Sergeant Yzaguirre stated he did not pull the trigger or place his finger in the trigger guard. He noticed the rifle's safety had been disengaged and was in the "off" position, but he was unaware how that occurred.

OIG Note No. 3: *Sergeant Yzaguirre opined that he must have inadvertently disengaged the safety, either while trying to place the rifle back in the rack or when the rifle fell forward.*⁷

⁵ Yzaguirre, First Interview, Page 32, Line 20 – Page 33, Line 6; Page 51, Lines 12-15; Page 52, Lines 22-23; Page 55, Lines 1-5; Second Interview, Page 12, Lines 14-18.

⁶ The fired projectile was not located.

⁷ Yzaguirre, First Interview Page 68, Lines 16-20; Second Interview, Page 16, Lines 20-25.

Sergeant Yzaguirre stated the round fired as he lifted the rifle while it was still in the rack. He believed the “*plastic peg*”, which is a part of the rifle rack that fits into the rifle’s trigger guard, may have caused the trigger to be depressed.⁸

After the round discharged, Sergeant Yzaguirre engaged the safety to the “on” position and placed the rifle on the front passenger seat.

Note: On September 15, 2019, a similar NTUD incident (FID Case No. F044-19) occurred involving a patrol rifle as it was placed into a Department-authorized Blac-Rac rifle rack. In an effort to explain how that incident might have occurred, a video was prepared with the assistance of Training Division demonstrating how to properly secure a rifle in the rack. Although Sergeant Yzaguirre was operating a different police vehicle, the rack and patrol rifle were the same model as the ones demonstrated in the video. Due to the similarities between these two incidents, this video was again utilized in this investigation.



Empty rifle rack.
Red arrow pointing at trigger post.



Rifle in rifle rack.
Red arrow pointing at trigger post.

⁸ The plastic peg mentioned by Sergeant Yzaguirre is referred to as a “reinforced trigger post” by the manufacturer.



[Sergeant Yzaguirre's patrol rifle after the NTUD]

Sergeant Yzaguirre exited his police vehicle and advised the officers at scene that a NTUD had occurred. Once Lachman was detained, Sergeant Yzaguirre ensured the scene was secured and assigned Officers Lopez and Luna to check the area for anyone who might have been injured during the incident and to canvass for witnesses. He then called Lieutenant Murphy and notified him that a NTUD had occurred and requested additional supervisory personnel to the scene.

Lieutenant Murphy directed Metropolitan Division Sergeant II Eldred Day, Serial No. 30990, to respond to 8801 South Sepulveda Boulevard. At 1250 hours, Sergeant Day obtained a Public Safety Statement from Sergeant Yzaguirre and ordered him not to discuss the incident. Sergeant Day began monitoring Sergeant Yzaguirre and later transported him to Pacific Station.

Force Investigation Division Detective II Sean Foote, Serial No. 36979, reviewed the documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident prior to being interviewed by FID investigators. All protocols were followed and appropriately documented (Addendum No. 2).

Witness Statements

Although Officers Lopez, Luna, Wright, and Nies were in the parking lot at the time the incident occurred, they were in the process of taking Lachman into custody and did not observe Sergeant Yzaguirre's NTUD. Officers Lopez, Luna, Wright, and Nies heard one gunshot. Their statements were documented on Law Enforcement Heard Only statement forms and were retained in the FID case file.

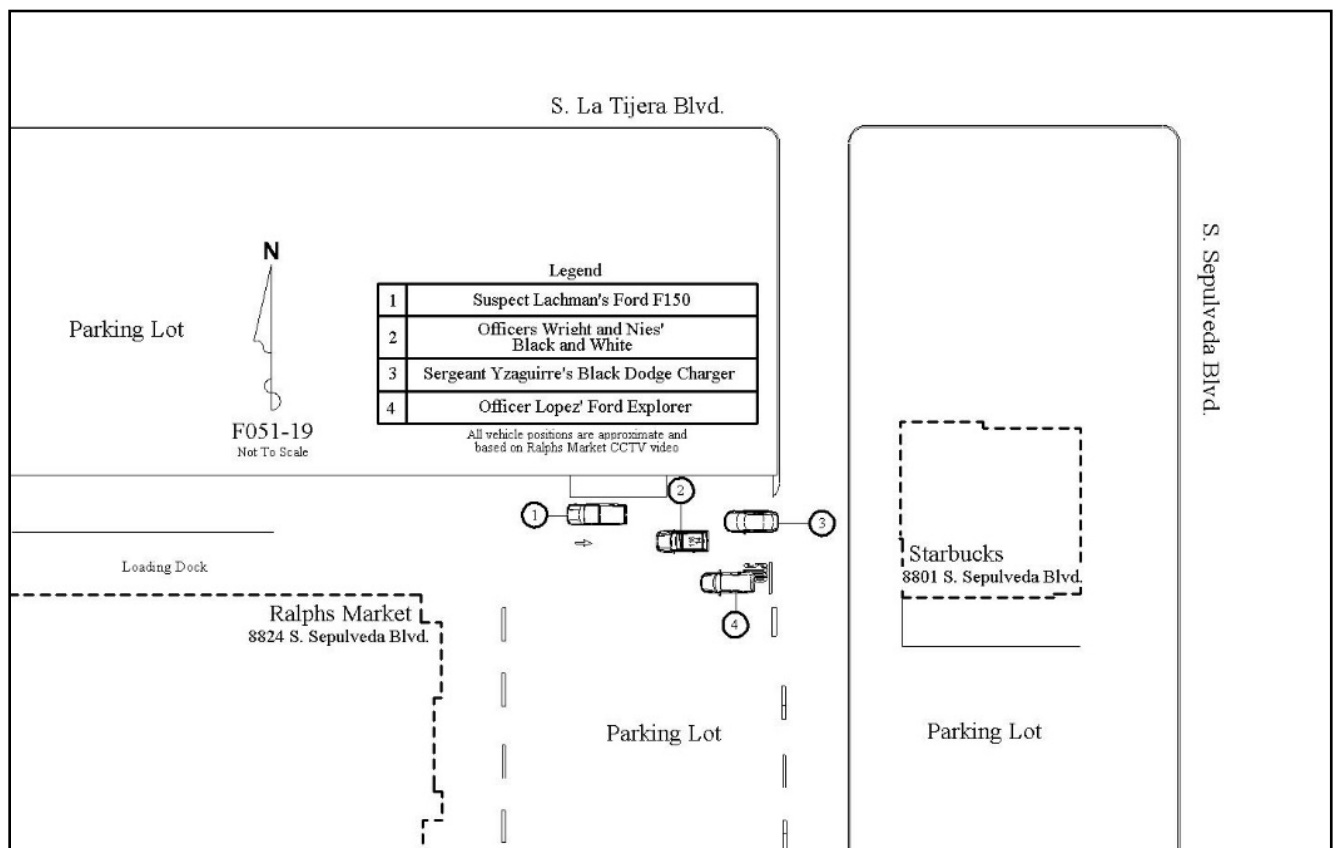
Three “Heard Only” witnesses were located during a canvass for this incident. Each of those individuals indicated they heard one gunshot. Their statements were documented on “Heard Only” statement forms and were retained in the FID case file.

Lachman declined to provide a statement.

Evidence

On October 23, 2019, at 1446 hours, FID Sergeant II Jess Falk, Serial No. 38231, responded and conducted an examination of the scene. The investigation determined that the rifle round fired by Sergeant Yzaguirre traveled upward through the roof of the police vehicle. Sergeant Falk discovered a single discharged 5.56mm casing on the floorboard, between the front driver seat and center console. He recovered and later booked the item at Property Division. The fired projectile was not located (Addendum No. 3).

Scene measurements were taken by Sergeant Falk and a diagram was later created by FID Investigative Support Unit Police Officer III Matthew Medina, Serial No. 40490.



[Diagram depicting vehicle positions at the time of the NTUD]

Weapons

Sergeant Yzaguirre utilized his Department-issued Colt M4, 5.56mm rifle (Serial No. AC157230). When recovered by Detective Foote, the rifle was found on its right side leaning against the front passenger seat of Sergeant Yzaguirre's police vehicle. The muzzle was pointed upward toward the head rest and the safety was in the "on" position. One round was in the chamber and 24 rounds were in the magazine.

Note: The capacity of the magazine was 30 rounds.

All of the rounds were Department-authorized 5.56mm Winchester, 55 grain, full metal jacket. The investigation determined the 30-round magazine was loaded with 26 rounds prior to the NTUD. This is consistent with one round being fired during the NTUD (Investigators' Note No. 1).

On October 24, 2019, at 0930 hours, Training Division Police Officer III Luke Paik, Serial No. 30188, inspected Sergeant Yzaguirre's rifle and found it to be in good mechanical order. All safeties were in place and working property. The trigger pull weight was within factory specifications (Addendum No. 4).



[Image of Sergeant Yzaguirre's patrol rifle]

Visual Documentation

Digital In-Car Video System (DICVS)

None of the vehicles utilized by CIT personnel during this incident were equipped with DICVS.

Body Worn Video (BWV)

Although Sergeant Yzaguirre and his CIT officers were assigned to conduct surveillance and were not working in an undercover capacity, they were not equipped with BWV. In providing his rationale for not wearing BWV, he cited an exemption noted in Special Order No. 12, 2015, (Body Worn Video Procedures – Established), which stated that *officers were not required to activate and record investigative or enforcement encounters with the public when: recording would risk the safety of a confidential informant, citizen informant, or undercover officer.*

Note: Sergeant Yzaguirre referred to his CIT personnel as undercover officers that embed themselves in an area during their investigations.

Social Media

Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the completion of this investigation. No additional evidence, information, or witnesses were identified.

Other Department Video

No Department video was captured during the incident.

Outside Video

Force Investigation Division detectives identified security video from the Ralphs market located in the parking lot where the incident occurred. Technical Investigation Division (TID) Police Surveillance Specialist I Justin Villorante, Serial No. N5240, recovered the video, which captured Lachman's truck enter the parking lot followed by the four CIT police vehicles. The video was recorded without sound and depicts Lachman being taken into custody without incident. The video was vaulted at TID under Control No. 741581.

Photographs

Technical Investigation Division Photographer III Marie Sallaberry, Serial No. N3637, responded and photographed the scene. Copies of the photographs were included in this report. The original disk containing the photographs was vaulted at TID under D No. 0770752.

Prior to the arrival of FID investigators, Sergeant Yzaguirre took photographs documenting the position of Lachman's truck, the CIT vehicles, and other uninvolved vehicles parked nearby. Copies of those photographs were vaulted at TID under D No. 0395867.

[...]

Investigators' Notes

1. According to Department Personnel and Training Bureau, Notice 12.1.1, dated March 22, 2012, "all patrol rifle magazines shall be loaded two rounds less than full capacity. A 20-round magazine shall be loaded with 18 rounds; a 30-round magazine shall be loaded with 28 rounds. No exceptions."

The 30-round magazine that was seated in Sergeant Yzaguirre's rifle was loaded with 26 rounds, instead of 28 rounds. Sergeant Yzaguirre stated he believed his magazine was loaded with 28 rounds.

The same Training Bureau Notice also indicated that "Patrol Rifle operators shall indicate, by either marking with an ink marker or applying labels such as Dymotape or P-Touch, on each magazine what the actual round count is in that magazine." The investigation determined Sergeant Yzaguirre's magazines were not marked as prescribed. He indicated that he had recently purchased new rifle magazines and had not yet marked them.

Force Investigation Division Commanding Officer Captain III Al Pasos, Serial No. 25501, advised the concerned Office Director regarding the above issues.

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CHIEF OF POLICE REPORT⁹

Chief of Police Findings

- The Chief recommended the following findings in this case:

Tactics – Tactical Debrief, Sergeant Yzaguirre.

Drawing/Exhibiting – Does Not Apply.

Unintentional Discharge – Administrative Disapproval, Negligent Discharge, Sergeant Yzaguirre.

Chief of Police Analysis

Detention

- The NTUD occurred during Sergeant Yzaguirre's securing of his rifle in the rack of his police vehicle. The detention of Lachman was not a factor in this incident; therefore, the detention was not reviewed or evaluated.

Tactics

- Department policy relative to a Tactical Debrief is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance" (Los Angeles Police Department Manual, Volume 3, Section 792.05).

Sergeant Yzaguirre's tactics were not a factor in this incident; therefore, they were not reviewed or evaluated. However, as Department guidelines require personnel who are substantially involved in a Categorical Use of Force incident to attend a Tactical Debrief, the Chief determined that it would be appropriate to recommend a Tactics finding of Tactical Debrief.¹⁰

During the review of this incident, the following Debriefing Point was noted:

- Firearms Manipulations – Basic Firearm Safety Rules

⁹ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

¹⁰ A Tactical Debrief shall be conducted for all CUOF incidents within 90 calendar days of the conclusion of the BOPC review process. *LAPD Department Manual, Volume 3, Section 792.15.*

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

Tactical De-Escalation Techniques

- *Planning*
 - *Assessment*
 - *Time*
 - *Redeployment and/or Containment*
 - *Other Resources*
 - *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*
- Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

At the time of this incident, Sergeant Yzaguirre had just arrived at the termination of a following for an Assault with a Deadly Weapon suspect and was attempting to secure his rifle into the rifle rack at the time of the NTUD. Sergeant Yzaguirre was not actively involved in the tactical situation. Therefore, Officer Yzaguirre was not evaluated on tactical de-escalation efforts.

Additional Tactical Debrief Topics

- **Securing Firearm** – According to Sergeant Yzaguirre, he kept a holstered, but unsecured, back-up firearm in-between the front passenger seat and center console of his police vehicle. Sergeant Yzaguirre stated that he stored his back-up firearm in that manner for officer safety due to the risks inherent in being seated in a locked vehicle and the possibility of being approached by a dangerous suspect. The smaller and more readily accessible back-up firearm could be drawn and unholstered without having to complete a large movement inside the police vehicle; unlike a larger service pistol which could reveal that a police operation is ongoing if it was observed. Sergeant Yzaguirre is reminded that leaving a firearm unsecured in his police vehicle may allow unauthorized persons to gain access to the firearm if it is left unattended. The Chief will direct Sergeant Yzaguirre to properly secure all weapon systems within his police vehicle and for this to be a topic of discussion during the Tactical Debrief.
- **Chambering a Round in a Rifle While Seated in Police Vehicle** – The FID investigation revealed that Sergeant Yzaguirre removed his rifle from the interior rifle storage rack inside of his police vehicle while seated inside of his stopped police

vehicle as he was still in the process of approaching the location. Although not prohibited or a violation of Department policy, the deployment and loading of a firearm while in the process of driving to a location could increase the possibility of a NTUD. At the time Sergeant Yzaguirre deployed his rifle, Lachman did not pose an imminent threat and Sergeant Yzaguirre's primary focus should have remained on the safe operation of his motor vehicle. The Chief will direct this to be a topic of discussion during the Tactical Debrief.

- **Firearm Manipulations** – The investigation revealed that Sergeant Yzaguirre unintentionally manipulated the selector switch of his rifle as he attempted to place his loaded rifle, with a chambered round, in the interior rifle storage rack while seated in his police vehicle. There is an increased possibility of inducing an unintentional discharge when exhibiting and chambering a round in the rifle while seated inside of a police vehicle. The Chief will direct this to be a topic of discussion during the Tactical Debrief.
- **Back-Up Request** – The FID investigation revealed Sergeant Yzaguirre attempted to have an Air Unit respond for the following of an ADW suspect. Due to the Air Unit being busy he cancelled his request. Sergeant Yzaguirre, however, did not broadcast a following of an ADW suspect on PAC Area base frequency or any other frequency utilized by the Metro CIT team. The Chief will direct this to be a topic of discussion during the Tactical Debrief.
- **Updating Status** – The FID investigation revealed that Sergeant Yzaguirre did not update his or his units' status from 8001 Windsford Avenue to 8801 South Sepulveda Boulevard until after the tactical situation had been completed. The Chief will direct this to be a topic of discussion during the Tactical Debrief.
- **Utilization of Personal Camera** – The FID investigation revealed that prior to arrival of the FID investigators and TID personnel, Sergeant Yzaguirre utilized his personal camera to take photographs of crime scene to document the numerous vehicles that were present at the time of the NTUD. All photos taken were given to TID personnel upon their arrival and stored at TID. Sergeant Yzaguirre is reminded of post-categorical procedures and allowing the proper Department section to handle their assigned duties within the procedures for a Categorical Use of Force. The Chief will direct this to be a topic of discussion during the Tactical Debrief.

Command and Control¹¹

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously*

¹¹ Training Bulletin-Command and Control was adopted by the Department July 31, 2018.

assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

After the scene of the NTUD had been secured and it had been verified that there were no injuries due to the NTUD, Sergeant Yzaguirre began his notifications by contacting Lieutenant Murphy.

According to the FID investigation, after being advised of the NTUD by Sergeant Yzaguirre, Lieutenant Murphy notified the DOC and dispatched Sergeants Day, Rainey, and Ramos to the scene of the NTUD.

According to Sergeant Rainey, upon arrival at the scene of the NTUD, he declared himself Incident Commander.

According to Sergeant Day, upon arrival at the scene of the NTUD, Sergeant Day obtained Sergeant Yzaguirre's PSS and assumed monitoring duties of Sergeant Yzaguirre. Sergeant Day then transported Sergeant Yzaguirre to PAC CPS. Sergeant Day was relieved of his monitoring duties of Sergeant Yzaguirre by Sergeant Gibbens in the rear parking lot of PAC CPS.

Sergeant Gibbens continued monitoring Sergeant Yzaguirre until relieved by FID investigators.

Sergeant Ramos obtained a PSS from each of the "heard only" witnessing officers, and assumed monitoring duties of Officers Wright, Nies, Luna and Lopez. Sergeant Ramos was relieved of his monitoring duties for Officers Nies, Lopez and Wright by Sergeant Langsdale. Sergeant Ramos continued to monitor Officer Luna and transported Officer Luna to PAC CPS. Sergeant Ramos was relieved of his

monitoring duties by Sergeant Gibbens in PAC CPS Detective Area. Sergeant Gibbens continued monitoring Officer Luna until relieved by FID investigators.

Sergeant Langsdale transported Officers Nies, Lopez, and Wright to PAC CPS and continued monitoring duties in the PAC CPS, Roll Call room. Sergeant Langsdale was relieved of his monitoring duties by Sergeant Delatorre.

Sergeant Delatorre continued monitoring Officers Nies, Lopez, and Wright until relieved by FID investigators.

The actions of Sergeant Yzaguirre attempting to deploy his rifle were not necessary as he had multiple officers already making contact with Lachman. Sergeant Yzaguirre should have remained available to supervise the tactical incident.

Note: Captain C. Valenzuela, Serial No. 33440, Assistant Commanding Officer, Metropolitan Division, advised that this issue was addressed through the issuance of a Notice to Correct Deficiencies (NTC). The Commanding Officer of Counter-Terrorism and Special Operations Bureau (CTSOB) and the Director of the Office of Special Operations (OSO) concurred with this action. As such, the Chief deemed no further action is necessary.

The actions of Lieutenant Murphy, along with Sergeants Day, Rainey, Ramos, Langsdale, DeLaTorre, and Gibbens were consistent with Department supervisory training and met the Chief's expectations of field a supervisor during a critical incident.

Tactical Debrief

- Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvements could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident.

The Chief will direct Sergeant Yzaguirre to attend a Tactical Debrief that shall include discussions pertaining to the Debriefing Topics along with the following mandatory topics:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

- Sergeant Yzaguirre attended a GTU on November 13, 2019. All mandatory topics were covered, including Firearm Manipulations.

During the review of the incident, the following Debriefing Topics were noted:

- **Debriefing Point No. 1 Unintentional Discharge**

Firearms safety is critical. Officers must have the ability to draw, holster and manipulate weapons safely at all times, especially under stressful conditions. Firearms safety rules have been established based upon real life situations and are applicable at all times. Violations of any of the safety rules will not be tolerated.

Basic Firearm Safety Rules

1. *All guns are always loaded.*
2. *Never allow the muzzle to cover anything you are not willing to shoot.*
3. *Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.*
4. *Be sure of your target.*

Officers are required to know and apply the Four Basic Firearm Safety Rules throughout their careers. These rules must be ingrained into an officer's natural thought process and become second nature. Any violation of the Four Basic Firearm Safety Rules may result in the unintentional discharge of a round. This is a serious matter with the potential of having tragic results. For administrative purposes, the unintended discharge of a weapon is classified into two categories:

1. *Accidental discharge: An unintended discharge of a firearm as a result of a mechanical malfunction of the firearm, not involving the shooter.*
2. *Negligent discharge: An unintended discharge of a firearm as a result of a shooter not handling a weapon in a safe manner, violating one or more of the four basic firearm safety rules (Los Angeles Police Department Firearms Manual, July 2015).*

Administrative Disapproval - Negligent Discharge. *Finding where it was determined that the unintentional discharge of a firearm resulted from operator error, such as the violation of a firearm safety rule (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

- **Sergeant Yzaguirre** – 5.56mm, Colt M4, Department issued rifle, one round, in an upward trajectory through the police vehicle roof.

According to Sergeant Yzaguirre, upon observing that the Metro CIT officers were getting compliance from Lachman, Sergeant Yzaguirre then attempted to place his rifle into the interior rifle storage rack of his police vehicle. On his first attempt it fell forward towards the in-dash vehicle navigation screen. Sergeant Yzaguirre grabbed the rifle with two hands. At some time, Sergeant Yzaguirre opined that he must have moved the safety to the off position. On his second attempt to place the rifle in the vehicle storage rack, the trigger post was placed into the trigger guard to secure the rifle in the vehicle storage rack. Sergeant Yzaguirre's efforts to place the rifle in the vehicle rifle storage rack caused the trigger to push backwards against the trigger post and caused the rifle to fire a round while the rifle was in the rack.

Sergeant Yzaguirre recalled, *"I release my rifle that's in a rack in my Charger. I make it ready by loading -- when I say ready, I have a round -- I put a round in the fire by pulling the bolt release back and then sending it forward."*¹²

*"I'm looking, but I'm still trying to put my rifle in the rack. It falls forward, because I'm trying to watch and kind of not really looking and it didn't fall -- fall in. So when it falls forward, I get it with two hands, try it again, and at that point somewhere along the line I must have knocked the safety off."*¹³

*"The way this rack is designed, the -- what holds it is putting it through the trigger guard. And what I did in there, it caused the trigger to push backwards and it fired a round while the rifle was in the rack."*¹⁴

The Chair of the UOFRB conducted a thorough review in evaluating the circumstances and evidence related to the NTUD. The Chair of the UOFRB determined that the NTUD was the result of operator error. Sergeant Yzaguirre failed to properly unload his rifle prior to placing it into the rifle storage rack. In addition, Sergeant Yzaguirre unintentionally disengaged the safety of his rifle and then placed his loaded rifle into the police vehicle's interior rifle storage rack with the rifle's safety disengaged which caused one round to discharge from the rifle.

Based on the totality of the circumstances, the Chair of the UOFRB determined and the Chief concurred, that the NTUD was the result of operator error. Additionally, Sergeant Yzaguirre failed to adhere to the Department's Basic

¹² Yzaguirre, Page 32, Lines 3-6.

¹³ *Id.*, Page 32, Lines 3-6 and Page 33, Line 1.

¹⁴ *Id.*, Page 33, Lines 2-6.

Firearm Safety Rules, and therefore, requires a finding of Administrative Disapproval (AD), Negligent Discharge.

Injuries

- There were no injuries as a result of this NTUD.

Additional/Equipment

- **Securing TASER on Tactical Vest** – The FID investigation revealed that Sergeant Yzaguirre configured his tactical vest with his TASER positioned in a primary side draw position. Per Use of Force Tactics Directive No. 4.5, dated July 2018, the TASER is required to be carried on the support side of the duty belt in either a cross draw or support side draw position. Captain Valenzuela advised that this issue was addressed through the issuance of a NTC. The Commanding Officer of CTSOB and the Director of the OSO concurred with this action. As such, the Chief deemed no further action is necessary.
- **Operation Plan** – The investigation revealed Metro CIT personnel utilized a “Metro Crime Impact Team - Operation/Game Plan” form to document the tactical operation and not the Department approved Operation Plan, LAPD Form 12.22.00. The Metro Crime Impact Team - Operation/Game Plan form used during this incident captured all of the required information found on the Department approved Operation Plan. Captain Valenzuela advised that as a result of this incident, the Metro Crime Impact Team - Operation/Game Plan was no longer used by Metro personnel. Captain Valenzuela directed that Metro personnel only use the Department approved Operation Plan, LAPD Form 12.22.00. The Commanding Officer of CTSOB and the Director of OSO concurred with this action. As such, the Chief deemed no further action is necessary.
- **Required Equipment** – The FID investigation revealed that Officers Wright and Nies were the designated arrest team and not equipped with BWV, despite being in full uniform and driving a marked black and white police vehicle. Captain Valenzuela advised that this issue with Officer Wright was addressed through the generation of a Supervisory Action Item (SAI) and the issuance of an NTC. Captain Valenzuela advised that this issue with Officer Nies was addressed through the generation of a SAI and Informal Counseling. The Commanding Officer of CTSOB and the Director of the OSO concurred with these actions. As such, the Chief deemed no further action is necessary.
- **Rifle Magazine Markings** – The FID investigation revealed that Sergeant Yzaguirre did not indicate on the exterior of his rifle magazines the round count of the magazines. Sergeant Yzaguirre stated that his rifle magazines were brand new and he had not marked the exterior of the magazines with the round count for the magazines. Captain Valenzuela advised that this issue was addressed through the issuance of an NTC and the marking of the magazines. The Commanding Officer of

CTSOB and the Director of OSO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Rifle Loading Standards** – The FID investigation revealed Sergeant Yzaguirre loaded his 30-round rifle magazine with 26 rounds, instead of 28 rounds as per Department procedure. The FID investigation revealed that Sergeant Yzaguirre did not count the rounds he loaded into his rifle magazine and instead utilized a clear window on the side of the magazine. Sergeant Yzaguirre believed the rounds to be in the correct location to indicate that 28 rounds had been loaded in the magazine. Captain Valenzuela advised that this issue was addressed through the issuance of a NTC. The Commanding Officer of CTSOB and the Director of OSO concurred with this action. As such, the Chief deemed no further action is necessary.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)/Body Worn Video (BWV)** – Sergeant Yzaguirre's NTUD occurred while he was on-duty; however, due to working in a plainclothes surveillance capacity at the time, Sergeant Yzaguirre was not equipped with BWV and Sergeant Yzaguirre's police vehicle was not equipped with DICV.
- **Surveillance Video** – A surveillance camera from the Ralph's parking lot recorded the Metro CIT officers detaining Lachman and placing him under arrest. The video footage did not record audio of the incident, nor the NTUD.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Detention

- Does not apply.

Tactical De-escalation

- Does not apply.

Additional

- As reported by FID, Sergeant Yzaguirre accounted for the fact that he and his CIT officers were not equipped with BWV by citing an exemption to the Department's BWV policy, which states that officers are not required to activate and record investigative or enforcement encounters with the public when *"recording would risk the safety of a confidential informant, citizen informant, or undercover officer."*

The OIG notes that operation during which Sergeant Yzaguirre's NTUD occurred did not involve officers working in an undercover capacity. As such, and absent further information to the contrary, it appears that the exemption cited by Sergeant Yzaguirre was not applicable in this instance. The OIG recommends that the proper application of BWV policy be addressed with Sergeant Yzaguirre.

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.

Drawing/Exhibiting

- Does not apply.

Unintentional Discharge

- The OIG concurs with the Chief's findings.

A handwritten signature in black ink, appearing to read "M. P. Smith". The signature is written in a cursive, flowing style.

Mark P. Smith
Inspector General